

§ 221.20

(3) By sending the document by facsimile if:

(i) The document is 20 pages or less, including all attachments;

(ii) The sending facsimile machine confirms that the transmission was successful; and

(iii) The document is sent by regular mail on the same day; or

(4) By sending the document, including all attachments, by electronic mail if:

(i) A copy of the document is sent by regular mail on the same day; and

(ii) The party acknowledges receipt of the document by close of the next business day.

(d) *Acknowledgment of service.* Any party who receives a document under this subpart by electronic mail must promptly send a reply electronic mail message acknowledging receipt.

(e) *Certificate of service.* A certificate of service must be attached to each document filed under this subpart. The certificate must be signed by the party's representative and include the following information:

(1) The name, address, and other contact information of each party's representative on whom the document was served;

(2) The means of service, including information indicating compliance with paragraph (c)(3) or (c)(4) of this section, if applicable; and

(3) The date of service.

INITIATION OF HEARING PROCESS

§ 221.20 What supporting information must NMFS provide with its preliminary prescriptions?

(a) *Supporting information.* (1) When NMFS files a preliminary prescription with FERC, it must include a rationale for the prescription and an index to NMFS's administrative record that identifies all documents relied upon.

(2) If any of the documents relied upon are not already in the license proceeding record, NMFS must:

(i) File them with FERC at the time it files the preliminary prescription; and

(ii) Provide copies to the license applicant.

(b) *Service.* NMFS will serve a copy of its preliminary prescription on each license party.

50 CFR Ch. II (10-1-06 Edition)

§ 221.21 How do I request a hearing?

(a) *General.* To request a hearing on disputed issues of material fact with respect to any prescription filed by NMFS, you must:

(1) Be a license party; and

(2) File with the Office of Habitat Conservation a written request for a hearing within 30 days after the deadline for the Departments to file preliminary prescriptions with FERC.

(b) *Content.* Your hearing request must contain:

(1) A numbered list of the factual issues that you allege are in dispute, each stated in a single, concise sentence; and

(2) The following information with respect to each issue:

(i) The specific factual statements made or relied upon by [the bureau] under § 221.20(a) that you dispute;

(ii) The basis for your opinion that those factual statements are unfounded or erroneous;

(iii) The basis for your opinion that any factual dispute is material; and

(iv) With respect to any scientific studies, literature, and other documented information supporting your opinions under paragraphs (b)(2)(i) and (b)(2)(iii) of this section, specific citations to the information relied upon. If any such document is not already in the license proceeding record, you must provide a copy with the request.

(c) *Witnesses and exhibits.* Your hearing request must also list the witnesses and exhibits that you intend to present at the hearing, other than solely for impeachment purposes.

(1) For each witness listed, you must provide:

(i) His or her name, address, telephone number, and qualifications; and

(ii) A brief narrative summary of his or her expected testimony.

(2) For each exhibit listed, you must specify whether it is in the license proceeding record.

(d) *Page limits.* (1) For each disputed factual issue, the information provided under paragraph (b)(2) of this section may not exceed two pages.

(2) For each witness, the information provided under paragraph (c)(1) of this section may not exceed one page.